

**REPORT OF SPECIAL DEPUTY ATTORNEY GENERAL  
DOUGLAS F. GANSLER ON MISUSE OF  
COMMONWEALTH OF PENNSYLVANIA GOVERNMENT  
E-MAIL COMMUNICATION SYSTEMS**

**August 18, 2016**



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## **I. EXECUTIVE SUMMARY**

### **A. Introduction**

Special Deputy Attorney General H. Geoffrey Moulton, Jr.'s, investigation into the handling of the Jerry Sandusky child abuse case uncovered e-mail traffic involving personnel from the Pennsylvania Office of Attorney General ("OAG") containing "graphic sexual images."<sup>1</sup> Shortly after the issuance of Moulton's report summarizing his findings, Attorney General Kathleen G. Kane directed the public release of certain e-mails from OAG personnel containing sexually explicit or offensive materials.<sup>2</sup> Thereafter, both the Pennsylvania Supreme Court and General Kane identified and released certain selected sexually explicit and otherwise offensive e-mail communications implicating OAG personnel and members of the Pennsylvania judiciary.

General Kane described these e-mails as "depict[ing] racism, sexism, [and] violence towards women as acceptable . . . ." She also noted that the materials "demonstrate discrimination against members of the lesbian, gay, bisexual, and transsexual community and

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<sup>1</sup> Charles Thompson, *Court bars release of sexually explicit e-mails found during Kathleen Kane's review of Jerry Sandusky probe*, The Patriot-News (Harrisburg) (Aug. 30, 2014), [http://www.pennlive.com/midstate/index.ssf/2014/08/court\\_tells\\_pittsburgh\\_paper\\_s.html](http://www.pennlive.com/midstate/index.ssf/2014/08/court_tells_pittsburgh_paper_s.html).

<sup>2</sup> Steve Esack, *Kathleen Kane releases requested sexually explicit e-mails received by former attorney general staffers*, The Morning Call (Allentown) (Sept. 25, 2014), <http://www.mcall.com/news/nationworld/pennsylvania/mc-pa-kane-corbett-pornography-e-mails-20140925-story.html>. In August 2015, the Pennsylvania Supreme Court released documents containing 398 pages of e-mails and attachments. Brad Bumsted & Natasha Lindstrom, *Pa. Supreme Court releases porn e-mails from AG's Office computers*, Pittsburgh Tribune-Review (Aug. 26, 2015), <http://triblive.com/news/adminpage/8975265-74/court-e-mails-kane>. General Kane also released other e-mails, including a group of messages allegedly sent or received by her sister, OAG staff prosecutor Ellen Granahan, in December 2015. Angela Couloumbis & Craig R. McCoy, *Latest in Porngate: Kane releases some of her twin's e-mails*, Philadelphia Inquirer (Dec. 17, 2015), [http://www.philly.com/philly/news/20151217\\_Did\\_Kane\\_and\\_her\\_twin\\_exchange\\_e-mails\\_cited\\_in\\_Porngate\\_.html](http://www.philly.com/philly/news/20151217_Did_Kane_and_her_twin_exchange_e-mails_cited_in_Porngate_.html).

religious groups. . . [and] demonstrate a complete lack of respect, tolerance for others, and impartiality for the public [those involved] are sworn to protect.”<sup>3</sup>

General Kane recognized the significant potential impact of these e-mails on the Pennsylvania law enforcement and judicial systems, and the public perception of these systems. In December 2015, General Kane addressed the need for an independent, non-partisan, and comprehensive investigation of these e-mails by appointing me<sup>4</sup> to conduct an independent investigation of allegedly sexually explicit, inappropriate or otherwise illegal e-mails being sent to or from employees of the OAG through OAG servers reflecting communications with government officials or others.<sup>5</sup>

Specifically, I was charged with investigating misconduct “arising from or related to the use of Commonwealth e-mail communications systems reflected in the tens of thousands of e-mails, including those that General Kane provided to Supreme Court Chief Justice Ronald D. Castille on October 8, 2014, relating to matters including, but not limited to, improper disclosure of criminal investigative or grand jury matters and the viewing or transmission of sexually explicit, racially or otherwise discriminatory or illegal materials, by any current or former member of the Office of Attorney General, any member of the judiciary of the Commonwealth of Pennsylvania and other public officials, or other related acts that may include evidence of

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<sup>3</sup> Video of the December 1, 2015 remarks by Attorney General Kathleen Kane is available at WGAL News 8, *Watch Kathleen Kane’s full remarks* (Dec. 1, 2015), <http://www.wgal.com/news/watch-kathleen-kanes-full-remarks/36739180>.

<sup>4</sup> A biography of Douglas F. Gansler is at Appendix A.

<sup>5</sup> The Attorney General also contracted with the law firm of BuckleySandler LLP (“BuckleySandler”), where I am a partner, as outside counsel to assist with my investigation (the “Investigative Team”). That Investigative Team has consisted of a combination of BuckleySandler partners, counsel, and associates, including, but not limited to, Benjamin B. Klubes, Caitlin M. Kasmar, Antonio J. Reynolds, Elizabeth R. Bailey, Nathan Pysno, and Caroline Stapleton. The contract is at Appendix B.

improper collusion, lack of impartiality and independence, or obstruction of court proceedings or other government functions.”<sup>6</sup>

## **B. The Four Principles of This Investigation**

My investigation has been governed by four principles. First, it would be independent. Second, it would be comprehensive and fair, with no limitations as to individuals subject to review, and no preconceived conclusions. Third, my investigative methodology and findings would be transparent. Fourth, my conclusions would be factually based, and my recommendations for further action would be soundly grounded in those facts and in the applicable laws and regulations. Each of these principles is reflected in this report.

### **1. Independence**

General Kane emphasized the need for an independent review by an individual without political or other connections or agendas in Pennsylvania. Notably, the Investigative Team and I are independent investigators with no involvement in the Pennsylvania legal or law enforcement community.<sup>7</sup> Neither General Kane nor anyone in her office has demanded, requested or suggested any specific outcome or conclusions of this report. We did not furnish the OAG with an advance copy or draft of this report or my findings, or conferred with the OAG about my ultimate findings or recommendations.

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<sup>6</sup> Attorney General Kathleen G. Kane, Appointment of Special Deputy Attorney General To Conduct Independent Investigation (Dec. 1, 2015) (attached at Appendix C). Following instructions from President Judge Norman A. Krumenacker III, it was decided that my investigation would focus on employee misuse of the Commonwealth’s government computer systems and that materials relating to improper grand jury issues would be identified and referred to Judge Krumenacker. Pursuant to these discussions, all documents we received that were likely to contain grand jury material were isolated and copies of those documents were transmitted back to the OAG.

<sup>7</sup> Neither I nor any member of the Investigative Team is a member of the Pennsylvania Bar and thus have no past history, current matters, or future interest in relationships with bar members or cases before judges which could call into question the independence of this review. I have undertaken this matter pursuant to Pennsylvania Rule of Professional Conduct 5.5(c)(1).

## 2. Comprehensive Review

At the direction of General Kane, the OAG provided all e-mails on the OAG servers that were sent from or to any other Pennsylvania executive branch office or agency as well as any Pennsylvania judicial or legislative branch employee—thus, all e-mails in the possession of the OAG that were sent between OAG employees and employees of other Commonwealth offices or agencies in all three branches of government. We also collected e-mails sent or received from domains used by district attorneys and government employees from the 67 Pennsylvania counties that were also sent to or received by the OAG.<sup>8</sup> The e-mails were sent and received between August 2008 and December 2015. No limitations or exclusions were made to this collection. We collected in excess of 6.4 million documents.<sup>9</sup> Given the volume of material, we instituted the protocols detailed below to identify e-mails to review, and trained and utilized a group of attorneys to review, assess, and categorize those e-mails based on objective and credible standards.

## 3. Transparency

To enhance public confidence in the Pennsylvania government, it is critical that my investigation and findings be fully transparent. To effectuate the goal of transparency, we describe herein our review methodology, findings, and recommendations. In addition, we are providing to the OAG copies of all of the e-mails identified in this report with a recommendation that these e-mails be made available to the public in a manner consistent with relevant privacy laws (e.g., providing for redaction of certain personal financial, medical, tax, and other

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<sup>8</sup> We did not collect e-mails that were sent and received only between employees of the OAG and that were not sent to an outside party or governmental agency.

<sup>9</sup> A “document” is an e-mail or any attachments to an e-mail. For example, one e-mail with four attachments would be considered five documents.

information), as well as with consideration for limiting the public dissemination of sexually explicit and otherwise offensive content.

Because of the tremendous volume of materials, we conducted a phased review. We began with communications between or among the OAG and district attorneys, judges, judicial employees, and prosecutors. This subset of material and potentially inappropriate communications poses the starkest threat to public confidence in the judicial and law enforcement functions of the Commonwealth of Pennsylvania.<sup>10</sup> We then reviewed communications between or among the OAG and Commonwealth executive branch employees and legislators, who play important roles in Pennsylvania's government. This report reflects all of the work we have done in both phases.

Finally, to further the goal of transparency, throughout the investigation, I have responded to press inquiries, as well as citizen input, and the Investigative Team also reviewed and responded to incoming communications from concerned Pennsylvania citizens.<sup>11</sup>

#### 4. Factually and Legally Grounded Conclusions and Recommendations

Our automated multi-step filtering process identified approximately 352,000 potentially inappropriate documents, approximately 145,000 of which were e-mails (and the remainder of which were attachments to those e-mails), that were manually reviewed by the trained attorneys on our Investigative Team. Using statutory and regulatory definitions of sexually explicit or otherwise offensive material, the Investigative Team identified more than 11,930 inappropriate e-mails, including e-mails sent by more than 370 Pennsylvania prosecutors or OAG personnel

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<sup>10</sup> We submitted a comprehensive Interim Report to the OAG covering these materials on May 27, 2016.

<sup>11</sup> My Investigative Team received over 50 communications from approximately 20 members of the public, including several who contacted us anonymously. Where appropriate, we responded to these citizens via telephone or written communications to determine if their concerns were relevant to our investigation. In cases where others, such as the OAG Office of Education and Outreach, could best address their concerns, we referred them to that Office.



and more than 25 employees of the Pennsylvania judiciary (including judges and other court personnel).<sup>12</sup> Of the total number of inappropriate e-mails sent, approximately 25% contained obscene material or nudity (and potentially other offensive material as well), and approximately 75% of the e-mails contained other offensive material such as racism or sexism, but no obscene material or nudity.

Further, our analysis identified 38 individuals who sent 50 or more e-mails containing sexually explicit or offensive language or pictures. These individuals included current and former OAG agents, a Supreme Court Justice, a Senior Deputy Attorney General in the OAG, high-ranking officials of Commonwealth executive branch agencies, a judicial employee, city and county detectives, a parole agent, and other state and county employees. In light of available technology, our analysis could not determine whether any e-mails were actually opened or viewed by the recipients of these e-mails.

The judicial branch, the OAG, and other Commonwealth agencies have governing policies that, with a greater or lesser degree of specificity, prohibit the communication of sexually explicit or offensive material by their employees. These rules and policies are discussed in greater detail below in Section III. We believe that the communications identified above likely constituted a violation of such policies.

My investigation confirmed that a significant problem exists regarding the volume and nature of sexually explicit and offensive e-mail communication between certain members of the Pennsylvania judicial branch, including judges and district attorneys, as well as employees of state executive branch agencies, and even a member of the General Assembly. These

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<sup>12</sup> While the pool of inappropriate e-mails identified by the Investigative Team includes both government and non-government senders, the analysis regarding individual senders set forth in this report is limited to government employees with known work and/or private e-mail addresses, as the charge of this investigation was specific to government e-mail accounts and servers.

communications demonstrate a fundamental and dangerous degree of impropriety that threatens public confidence in a fair and unbiased law enforcement and judicial system, and impartial governance more generally. Moreover, these e-mails reflect a failure by some—certainly not all, but unfortunately not just one or two—judges, prosecutors, legislators, and employees and officials of all three branches of government to understand that the reality and perception of a fair and unbiased government and legal system is dangerously compromised by the seemingly routine exchange of sexually explicit and racially or otherwise derogatory or discriminatory communications over taxpayer-funded e-mail systems.

For a number of reasons, I have concluded that no criminal prosecution is thus far warranted under these circumstances. The investigation has focused on misconduct taking place over the Commonwealth's e-mail communication systems. The transmitting of obscene materials, while potentially satisfying the technical elements of a criminal offense,<sup>13</sup> is rarely prosecuted in Pennsylvania. In my view, the issues uncovered in the investigation, thus far, do not require a prosecutorial response. The public identification of the issue and those involved, combined with referral of certain persons to appropriate administrative oversight boards, such as the Judicial Conduct Board ("JCB"), for review and potential disciplinary action is a sufficient enforcement response. The e-mails do, however, reflect a long-standing lack of proactive leadership and a disturbingly deficient workplace culture and policies that fail to hold Commonwealth judges, legislators, and employees to the highest standards of public service.

It is my view that, instead of criminally prosecuting one or more individuals, the Commonwealth and its citizens would be best served by adopting certain policy

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<sup>13</sup> See e.g. 18 Pa. Cons. Stat. § 5903.

recommendations. There are several important steps that should be taken immediately to address this real threat to the integrity of Pennsylvania:

- All judges who sent sexually explicit or offensive e-mails should be referred to the JCB for investigation and potential disciplinary action;
- All OAG, prosecutorial personnel, or executive branch employees that sent sexually explicit or offensive e-mails should be referred to the appropriate administrative supervisor or body, such as the Disciplinary Board of the Supreme Court, for further investigation and potential disciplinary action;
- All Commonwealth employees, including judges and legislators, should be required to attend anti-bias and diversity training;
- The Commonwealth judiciary and other Commonwealth agencies should use software that blocks access to inappropriate websites on Commonwealth computers and that monitors transmission of inappropriate materials;
- Commonwealth government entities should review and likely revise their policies and procedures to provide for a more robust system of identifying and reporting potential misconduct by judges and other Commonwealth employees;
- Commonwealth government entities should review their non-discrimination policies and consider undertaking steps to improve enforcement of those policies.

The policy recommendations noted above will be discussed in more detail in Section V.

## **II. INVESTIGATION METHODOLOGY**

In conducting this investigation, the Investigative Team employed a carefully designed and executed methodology aimed at maximizing efficiency, fairness, and accuracy. This section describes the investigative process for the entire review.

### **A. E-mail Collection from the OAG**

At the inception of our review, we identified Pennsylvania government e-mail domains used by county employees, district attorneys, judicial employees, legislative employees, and state executive branch employees, and requested from the OAG any e-mails involving those domains within the OAG's possession and control. E-mail domains from approximately 90 Pennsylvania government jurisdictions were included in the collection. A list of domains collected from the OAG is attached at Appendix D. Additionally, we received a separate set of e-mails within the OAG's possession that had previously been identified by the OAG as containing potentially inappropriate material, some of which was duplicative of other material collected.

The initial e-mail searches to identify e-mails sent from or to the relevant domains were conducted within the OAG's e-Vault system. The OAG's e-Vault system contains e-mails dating back to 2008.<sup>14</sup> All available e-mails attributed to the relevant domains were collected and transmitted to BuckleySandler on encrypted hard drives. The drives also contained background and supporting documentation for the searches performed. The OAG provided us with the encrypted hard drives on December 16, 2015; February 12, 2016; and April 18, 2016.<sup>15</sup>

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<sup>14</sup> Since 2008, the OAG has employed e-Vault software (versions 9 and 10) that separately saves a permanent copy of every e-mail message sent to or from an OAG employee. The copies of e-mails saved to the e-Vault system remain unaffected when an end-user OAG employee deletes an e-mail from his or her OAG e-mail account. The Investigative Team understands that prior to 2011, it was OAG policy to retain e-mails for five years and then destroy them; however, in February 2011, Acting Attorney General William Ryan evidently shortened the retention policy from five years to six months. *See* Brad Bumsted, *Former Corbett aide significantly cut e-mail keeping rule*, Pittsburgh Tribune-Review (Feb. 14, 2014), <http://triblive.com/news/adminpage/5599066-74/ryan-corbett-general#axzz3uLSwNl6n>. Thereafter, all e-mails older than six months were destroyed. When General Kane took office in 2013, she instituted a legal hold, leading to the restoration of all e-mails from late 2008 forward using the two e-Vault databases.

<sup>15</sup> My letters acknowledging receipt of encrypted hard drives and requesting additional e-mail data are included at Appendix E. In March 2016, the Investigative Team also collected digital copies of its internal policy manuals from the OAG.

In all, we collected and analyzed approximately 1.67 terabytes of data, constituting more than 6.4 million documents, that passed through the OAG servers between 2008 and 2015.

## **B. Filtering for Inappropriate Material**

For each set of e-mails collected, the Investigative Team applied the search and review techniques detailed herein to identify and analyze inappropriate e-mails.<sup>16</sup>

Given the substantial volume of documents collected, the Investigative Team narrowed the scope of e-mails subject to manual review by developing a process to (a) remove inoffensive e-mails and (b) identify the e-mails most likely to contain inappropriate content. First, the Investigative Team created a list of search terms to identify potentially inappropriate material contained in the text of the e-mails collected. The search terms were aimed at identifying obscene or pornographic content as well as other offensive content related to characteristics such as race, religion, and sex. A complete list of the search terms used is attached at Appendix F. We applied the list of search terms to all e-mails containing readable text and isolated the population of documents that hit on at least one search term (“search term documents”).

Second, the Investigative Team identified the types of attachment files most likely to contain inappropriate content (“attachment documents”),<sup>17</sup> and searched for and set aside all e-mails which had one of these attachment types and which did not hit our search terms. The Investigative Team then applied Explicit Image Detection (“EID”) to the attachment documents. EID makes use of an existing database of pornography, as well as software that looks for skin

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<sup>16</sup> While the members of the Investigative Team committed in writing to maintain grand jury secrecy, the Investigative Team used grand jury-specific search terms to identify potential grand jury material. Out of an abundance of caution, that material was initially segregated from our review. Pursuant to the Investigating Grand Jury Proceedings statute, 42 Pa. C.S.A. § 4549(b), in April 2016, the OAG obtained permission from Judge Krumenacker for the Investigative Team to review documents identified as potential grand jury material, provided that those documents also contained potentially inappropriate material. We will return to the OAG all grand jury material identified during our review.

<sup>17</sup> The types of attachment files identified include video and image files.

tones, in order to assign a rating to a given file indicating how likely it is that the file contains pornographic material. Using the ratings, we were able to avoid reviewing attachment documents, including image and video files, that, according to the EID analysis, were unlikely to contain offensive material (e.g., work-related PowerPoints, or photographs of fully-clothed people). The EID process decreased the number of attachment documents requiring manual review by approximately 60%.

We further narrowed the pool of documents subject to manual review by utilizing a process called e-mail threading<sup>18</sup> to streamline the review of search term documents. E-mail threading decreased the number of search term documents requiring review by approximately 20% to 25%. Documents were also eliminated from review by identifying and excluding exact duplicates.

Using the procedures described above, the Investigative Team was able to take a total universe of millions of e-mails and their attachments and pare it down to a reduced—and thus more cost-effective—volume for attorney review. Ultimately, the set of documents for manual review totaled approximately 352,000.

### **C. Review Methodology**

The approximately 352,000 documents, roughly 145,000 of which were e-mails, that remained after the filtering process described above, were loaded into a database for review by attorneys. By reviewing the e-mails in a database, the Investigative Team was able to employ e-discovery tools to improve the efficiency of our review and to analyze the results.

For each reviewed e-mail thread, attorney reviewers applied content coding to identify inappropriate messages. Reviewers coded documents to indicate whether the document

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<sup>18</sup> An e-mail thread is an e-mail that includes all of the successive replies to an original e-mail. The thread is arranged in chronological order, with the original e-mail at the bottom of the thread and the most recent reply at the top.

contained inappropriate material as defined or informed by Pennsylvania or federal statute, regulation, or case law.<sup>19</sup> In doing so, reviewers also entered codes for each document indicating the type of content that triggered the determination that an e-mail was inappropriate.

Specifically, reviewers used the following codes:

- Obscene Material<sup>20</sup>
- Nudity<sup>21</sup>
- Protected Class<sup>22</sup>
  - Race
  - Color
  - Religious Creed
  - National Origin/Ancestry

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<sup>19</sup> Reviewers also utilized separate coding options to identify documents that contained grand jury material, material related to minors, or material reflecting potentially criminal or unethical conduct. We note that no child pornography was identified during the course of our investigation.

<sup>20</sup> The display, sale, performance, transmission, or other dissemination of obscene material is a criminal offense under Pennsylvania law. *See* 18 Pa. Cons. Stat. § 5903. Material was coded obscene if: “(1) the average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest; (2) the subject matter depicts or describes in a patently offensive way, sexual conduct of a type described in this section; and (3) the subject matter, taken as a whole, lacks serious literary, artistic, political, educational or scientific value.” 18 Pa. Cons. Stat. § 5903(b). Sexual conduct was defined as: “Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, anal or oral sodomy and sexual bestiality; and patently offensive representations or descriptions of masturbation, excretory functions, sadomasochistic abuse and lewd exhibition of the genitals.” *Id.* Because “mere nudity is not obscenity,” *Commonwealth v. Lebo*, 795 A.2d 987, 992 (Pa. Commw. Ct. 2002), the Investigative Team separated nudity into its own category. In addition, because obscenity would likely involve nudity, the Investigative Team did not code any document both “Obscene Material” and “Nudity.”

<sup>21</sup> Material was coded nudity if it showed the “human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or showing the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.” 18 Pa. Cons. Stat. § 5903(e).

<sup>22</sup> The term “protected class” is used here not as a legal term of art but instead as an internally-selected nomenclature meant to identify a list of possible characteristics implicated inappropriately in the e-mails. These protected classes or characteristics are identified in the Pennsylvania Human Relations Act, 43 Pa. Stat. § 951 *et seq.* (“PHRA”), and the relevant regulation on Prohibition of Discrimination and Affirmation of Equal Employment Opportunity, 4 Pa. Code § 1.861 (2016). We note that these laws do not refer to the personal characteristics described herein as “protected classes.”

- Age
- Sex/Familial Status<sup>23</sup>
- Handicap or Disability
- Guide Animals
- Union Membership
- Sexual Orientation
- Gender Identity or Expression
- AIDS or HIV Status<sup>24</sup>

Because the exercise of characterizing content as “inappropriate” can be viewed, by its nature, as at least partially subjective, we took steps to base our review only on characteristics and categories recognized as protected in some way under Pennsylvania law. When a definition of a particular characteristic or category was provided by Pennsylvania legal sources, we utilized that definition. When a definition was not available either in the statute or in another Pennsylvania legal source, we used commonly-accepted definitions available in dictionaries or other reliable legal sources, such as the United States Equal Employment Opportunity Commission, to define those terms. In this way, we strove to render our review as objective as possible, while recognizing that the decisions being made could be viewed as having a subjective component to some degree.<sup>25</sup>

We reviewed e-mails in two stages. During the first stage, we reviewed e-mails sent to or by judges, judiciary employees, court personnel, and prosecutors. During the second stage, we

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<sup>23</sup> In completing this review, we assumed that most or all obscenity or nudity could be considered sexist as well, and therefore our reviewers did not use the “Sex/Familial Status” code for documents containing obscene material or nudity unless there was a separate and independent reason to do so (e.g., pornography that was accompanied by a sexist statement). This approach allowed us to more accurately identify e-mails that contained sexist material separate from pornography.

<sup>24</sup> We also identified a very small number of documents indicating potentially questionable activities outside of the scope of this report. We will forward these documents to the OAG.

<sup>25</sup> Some e-mails and attachments could not be reviewed because a corrupted file, password-protected file, or other technical issue prevented the Investigative Team from accessing or viewing the file. Files that had technical issues amounted to less than one half of one percent of the total files we reviewed.



reviewed e-mails sent to or by employees of (i) Commonwealth executive branch agencies, such as the Pennsylvania Department of Revenue or the Pennsylvania Department of Transportation, and (ii) the Pennsylvania General Assembly, including the Pennsylvania Senate and the Pennsylvania House of Representatives and their staffs. Because government employees may correspond with private citizens via e-mail, or using their own personal e-mail accounts, we also reviewed a large number of e-mails sent or received from private e-mail addresses—that is, e-mail addresses not provided, supported, or maintained by the Pennsylvania government.

In all, attorneys on our Investigative Team reviewed more than 352,000 documents manually. The results of our review of the e-mails will be discussed in Section IV.

### **III. RELEVANT STANDARDS OF CONDUCT**

#### **A. Relevant Standards Governing Judges and Judicial Employees**

##### **1. Judicial Ethical Rules**

Pennsylvania’s Code of Judicial Conduct (the “Code”) sets forth standards for the ethical behavior of judges. According to the Code’s Preamble, it “is not an all-encompassing model of appropriate conduct for judges and judicial candidates, but rather a complement to general ethical standards and other rules, statutes and laws governing such persons’ judicial and personal conduct. The Code is designed to assist judges in practicing the highest standards of judicial and personal conduct and to establish a basis for disciplinary agencies to regulate judges’ conduct.”<sup>26</sup> The Pennsylvania Constitution requires that justices and judges of the Commonwealth adhere to the rules in the Code.<sup>27</sup>

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<sup>26</sup> Pa. Code of Judicial Conduct, Preamble, ¶ 4.

<sup>27</sup> Pa. Const. Art. V, § 17(b) (“Justices and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court.”).

The Code states that Pennsylvania judges must act “in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”<sup>28</sup> Judges must not show bias or prejudice, or engage in harassment when performing their official duties. Examples of bias or prejudice are: negative stereotyping; attempted humor based upon stereotypes; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics.<sup>29</sup>

Pennsylvania judges are expected to maintain these high standards even outside the courtroom. Judges must not “participate in activities that would reasonably appear to undermine the judge’s independence, integrity, or impartiality.”<sup>30</sup> “Discriminatory actions and expressions of bias or prejudice by a judge, even outside the judge’s official or judicial actions,” are likely to cause a reasonable person to question the judge’s integrity and impartiality.<sup>31</sup> Examples include: “jokes or other remarks” that demean individuals based upon personal characteristics such as race, sex, or religion.<sup>32</sup> These types of jokes or comments may seem harmless or even sometimes good-natured. Nonetheless, they may undermine the appearance of independence, integrity, or impartiality in the judiciary.

The JCB has brought disciplinary cases against judges for using racial epithets outside the courtroom.<sup>33</sup> It is also clear that rules in the Code barring use of jokes, stereotypes, or epithets based on race, sex, religion, and other characteristics apply to a judge’s e-mails. In a

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<sup>28</sup> Pa. Code of Judicial Conduct Rule 1.2.

<sup>29</sup> *Id.* Rule 2.3, cmt. 2.

<sup>30</sup> *Id.* Rule 3.1.

<sup>31</sup> *Id.* Rule 3.1, cmt. 3.

<sup>32</sup> *Id.*

<sup>33</sup> *See, e.g., In re Manning*, 711 A.2d 1113 (Pa. Ct. Jud. Disc. 1998) (bringing disciplinary case against judge, but finding that the evidence was insufficient to establish, by clear and convincing evidence, that the judge had actually used the alleged epithets).

recent case,<sup>34</sup> the Court of Judicial Discipline held that a former justice of the Pennsylvania Supreme Court violated the Code<sup>35</sup> by sending and receiving e-mails that included nudity, sexually suggestive themes, homophobic content, and stereotypes or jokes based on race, ethnicity, religion, and sex.

## 2. Rules Governing Other Employees of the Pennsylvania Judiciary

Employees of the Pennsylvania judiciary who are not judges are not bound by the Code, but must abide by the Code of Conduct for Employees of the Unified Judicial System (the “Judicial Employee Code”). All state-level court employees, and all county-level court employees who are under the supervision and authority of the President Judge of a Judicial District of Pennsylvania, are bound by the Judicial Employee Code, unless otherwise indicated by a Supreme Court order or rule.

A number of subparts of the Judicial Employee Code are relevant here. Employees of the judiciary are expected to “conduct themselves in an appropriate and lawful manner at all times and shall adhere to all workplace policies.”<sup>36</sup> Specifically, employees of the Unified Judicial System “shall treat all persons respectfully and impartially.”<sup>37</sup> They “shall avoid impropriety and the appearance of impropriety in all activities.”<sup>38</sup> They also “shall not engage in any form of discrimination, harassment, or retaliation against any person as prohibited by law or court policy.”<sup>39</sup> Finally, in making employment decisions, employees of the Unified Judicial System

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<sup>34</sup> *In re J. Michael Eakin*, No. 13 JD 15, at \*15-17 (Pa. Ct. Jud. Disc. Mar. 24, 2016).

<sup>35</sup> The case involved an alleged violation of Canon 2A of an earlier version of the Code, which is substantially similar to Canon 1 of the current Code: “A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.” Pa. Code of Judicial Conduct Canon 1. The current Code of Judicial Conduct became effective on July 1, 2014.

<sup>36</sup> Code of Conduct For Employees of the Unified Judicial System § VII.A.

<sup>37</sup> *Id.* § VII.B.i.

<sup>38</sup> *Id.* § VII.B.iv.

<sup>39</sup> *Id.* § VII.B.vi.

must follow the Unified Judicial System of Pennsylvania Policy on Non-Discrimination and Equal Employment Opportunity, the Rules of Judicial Administration, and all applicable state and federal laws.<sup>40</sup> The Unified Judicial System of Pennsylvania Policy on Non-Discrimination and Equal Employment Opportunity specifically prohibits discrimination or harassment on the basis of race, color, sex, sexual orientation, national origin, age, disability, or religion.<sup>41</sup> “Epithets, slurs, stereotyping, or denigrating jokes” are specifically listed as types of prohibited discrimination under this policy.<sup>42</sup>

Employees of the Unified Judicial System who fail to properly follow the standards of the Judicial Employee Code are subject to disciplinary action, up to and including termination of their employment.<sup>43</sup> The President Judge of each Judicial District is responsible for designating the applicable disciplinary policies for county-level court employees.<sup>44</sup>

## **B. Standards Governing Commonwealth Employees**

### **1. Standards Governing the Conduct of All Commonwealth Executive Branch Employees**

There are a number of specific policies or codes of conduct that apply to all Commonwealth executive branch agency personnel. The Pennsylvania Human Relations Act, which applies to the Commonwealth, prohibits discrimination in the making of employment decisions on the basis of race, color, religious creed, ancestry, age, sex, national origin, handicap

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<sup>40</sup> *Id.* § IV.D.

<sup>41</sup> Supreme Court of Pennsylvania, Unified Judicial System of Pennsylvania, Policy on Non-Discrimination and Equal Employment Opportunity.

<sup>42</sup> *Id.*

<sup>43</sup> Code of Conduct for Employees of the Unified Judicial System § IX.

<sup>44</sup> *Id.*

or disability, or the use of a guide or support animal.<sup>45</sup> Harassment based on these factors or conduct creating a hostile work environment is also prohibited.<sup>46</sup>

Perhaps the longest standing policy is the Governor’s Code of Conduct, first adopted in 1980.<sup>47</sup> The Governor’s Code of Conduct applies to employees, appointees, or officials of executive branches of the Commonwealth. Among other things, it prohibits “misuse of office facilities and equipment,” meaning “[using] any Commonwealth equipment, supplies or properties for his or her own private gain or for other than officially designated purposes.”<sup>48</sup>

Particularly relevant here is the Commonwealth of Pennsylvania Information Technology Acceptable Use Policy,<sup>49</sup> which applies to users of Commonwealth information technology (“IT”) systems, including e-mail, in any executive branch department, board, commission, council, or agency. Among other things, the policy states, “Authorized Users may not access, create, store, transmit, post, or view material that is generally considered to be inappropriate or personally offensive or which may be construed as discriminatory or harassing, including sexually suggestive, pornographic, or obscene material.” It also lists, “[a]ccessing, creating, storing, transmitting, posting, or viewing material that expresses or promotes discriminatory attitudes toward race, gender, age, nationality, religion, or other groups including, but not limited

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<sup>45</sup> See 43 Pa. Stat. § 955 (prohibiting employment discrimination); *id.* § 954 (“The term ‘employer’ includes the Commonwealth or any political subdivision or board, department, commission or school district thereof and any person employing four or more persons within the Commonwealth . . .”).

<sup>46</sup> *E.g., Raya and Haig Hair Salon v. Pa. Human Relations Comm’n*, 915 A.2d 728 (Pa. Commw. Ct. 2007).

<sup>47</sup> 4 Pa. Code § 7.151 *et seq.*

<sup>48</sup> *Id.* § 7.155.

<sup>49</sup> Management Directive, Commonwealth of Pennsylvania Governor’s Office, Commonwealth of Pennsylvania Information Technology Acceptable Use Policy, No. 205.34 Amended (Jan. 22, 2016).

to, protected groups identified in Executive Order 2003-10, Equal Employment Opportunity” as an “unacceptable use of IT resources.”<sup>50</sup>

Other relevant standards are set forth in the Public Official and Employee Ethics Act, which is aimed at preventing conflicts of interest and the obtaining of political benefits through “improper influence.”<sup>51</sup> Additionally, each individual agency, department, or commission may have its own policies on topics such as non-discrimination or workplace harassment.

## 2. Policies Governing the Conduct of OAG Employees

Several official policies that govern the conduct of OAG employees are relevant for purposes of this investigation, including (1) the Administrative Policy on Sexual, Racial, Religious, Ethnic or Other Forms of Unlawful Harassment, (2) the Policy on Appropriate Use of Computer Resources, and (3) the Code of Conduct issued by the OAG Criminal Law Division.

The OAG’s Administrative Policy on Sexual, Racial, Religious, Ethnic or Other Forms of Unlawful Harassment,<sup>52</sup> states that any form of sexual, racial, religious, ethnic, or other type of unlawful harassment by employees of the OAG is strictly prohibited. Examples of such conduct include, but are not limited to, ethnic, racial, religious, or age related slurs, jokes, or derogatory comments. Employees may be disciplined for violations of the policy, up to and including termination. Additionally, supervisors may be disciplined for failing to carry out their responsibilities under the policy.

The OAG’s Policy on Appropriate Use of Computer Resources establishes policies and procedures governing the proper use of computer equipment systems and e-mail within the

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<sup>50</sup> *Id.*

<sup>51</sup> 65 Pa. Cons. Stat. § 1101 *et seq.*

<sup>52</sup> This version of the Administrative Policy on Sexual, Racial, Religious, Ethnic or Other Forms of Unlawful Harassment, issued on April 19, 2012, replaced the previous, identically-titled policy that took effect on February 16, 2005.

OAG.<sup>53</sup> The policy requires that employees avoid using OAG computer systems “in a manner that is disrespectful, offensive, obscene, harassing or threatening to others.”<sup>54</sup> More importantly, the policy specifically lists several types of “prohibited communications” including, but not limited to:

- Any form of a “chain letter”;
- Any sexually suggestive, pornographic, or obscene material;
- Material that expresses or promotes discriminatory attitudes towards race, gender, age, nationality, religion, or other groups who are protected under federal or state law;
- Harassment or threats, including, but not limited to, the distribution of defamatory, fraudulent, intimidating, abusive, or offensive messages; and,
- Material that a reasonable individual may find personally offensive or inappropriate.<sup>55</sup>

Additionally, the Appropriate Use of Computer Resources policy states that “[e]mployees should assume that every communication will become part of a permanent file and may become a public record, or, at a minimum, may be viewed by persons other than the original intended recipient(s).”

Finally, the Code of Conduct issued by the Chief of Investigations of the OAG Criminal Law Division strictly prohibits bias-based policing<sup>56</sup> of individuals in all forms.<sup>57</sup> Stops or

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<sup>53</sup> Policy on Appropriate Use of Computer Resources (Nov. 1, 2006).

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> Bias-based policing is a law enforcement officer’s consideration of race, national origin, citizenship, religion, ethnicity, age, gender, or sexual orientation as a factor in determining the existence of probable cause to arrest a person or as a factor in constituting a reasonable and articulable suspicion that an offense has been committed so as to justify the detention of a person, or the search of a person or vehicle, absent a specific report. *See* Office of Attorney General, Criminal Law Division, Criminal Investigations, Directive: 202.52, Code of Conduct (effective Oct. 1, 2012).

<sup>57</sup> *Id.*

detentions based on these characteristics, or use of these characteristics as a factor in determining probable cause, absent a specific report, are not permitted.<sup>58</sup> OAG policy requires that agents within the OAG receive training on the harms of bias-based policing and discrimination at the beginning of their employment and at least every three years thereafter.

#### **IV. FINDINGS AND ANALYSIS**

Our review of the documents identified more than 11,930 inappropriate e-mails sent or received by Pennsylvania government employees, with nearly 25% containing obscene material or nudity (potentially in addition to other types of offensive material) and approximately 75% containing only non-pornographic, offensive language or images.<sup>59</sup>

Because sending (rather than receiving) such e-mails reflects a voluntary action, and because we do not have the forensic capability to determine whether an e-mail was opened or viewed, our analysis focused on the *senders* of inappropriate e-mail. Further, our analysis focused on government officials who sent inappropriate e-mails, either from their government accounts or private e-mail accounts that we could identify, even though our review identified a substantial number of private accounts that received or sent inappropriate e-mails.

After manually reviewing the narrowed pool of approximately 145,000 potentially relevant e-mails, as described above in Section II, the Investigative Team identified more than 11,930 inappropriate e-mails. Bearing in mind that each inappropriate e-mail could contain more

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<sup>58</sup> *Id.*

<sup>59</sup> We defined a single e-mail as the most recent content of an .msg file that was either drafted or forwarded by a user listed as the sender. For example, Person A e-mails a message to Person B. That is one e-mail. When Person B forwards the message to Person C, that constitutes a second e-mail. If Person B forwards the message to multiple recipients, that message still only counts as one e-mail.



than one type of inappropriate material, the following table categorizes the e-mails identified as inappropriate.<sup>60</sup>

<b>Type of Material</b>	<b>Percentage of Inappropriate E-mails Containing This Type of Material<sup>61</sup></b>
Sex/Familial Status	51%
Nudity	18%
Religious Creed	16%
National Origin/Ancestry	15%
Race or Color	12%
Sexual Orientation	12%
Age	9%
Obscene Material	7%
Handicap or Disability	5%
Gender Identity or Expression	4%
AIDS or HIV Status	>1%
Guide Animals	>1%
Union Membership	>1%

Our analysis focused on categories of senders who held senior positions of substantial responsibility in the Commonwealth: judges, other judicial employees, assistant district attorneys, members of the General Assembly, and executive branch officials. The rationale for this focus is obvious—the perception and reality of an independent and unbiased judicial system is endangered by judges, judicial branch personnel, or district attorneys who send pornographic, obscene, or racially or sexually offensive e-mails. Similarly, public confidence in those who represent Pennsylvanians, in the case of members of the General Assembly and their staffs, or who serve the Commonwealth in public service in public agencies or departments, is shaken when those persons send inappropriate e-mails.

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<sup>60</sup> The time period of the set of inappropriate e-mails is also notable. While the set of e-mails reviewed covered the last third of 2008 through the end of 2015, the number of inappropriate e-mails sent in each of those years decreased steadily between 2009 and 2015.

<sup>61</sup> Because a single e-mail may contain multiple types of inappropriate material, these percentages have some overlap and do not add up to 100%.

We identified more than 45 senders holding the following positions<sup>62</sup> and sending inappropriate e-mails in the following volumes:

Type of Position	Number of Sent E-Mails
Judges	More than 160
Assistant District Attorneys	More than 35
Senior Executive Branch Officials	More than 30
Members of the General Assembly	Approximately 5

#### A. Judge and Assistant District Attorney Senders

Given the significance of judges in the administration of justice in the Commonwealth of Pennsylvania, set forth below is detailed information regarding judges who sent three or more inappropriate e-mails.

##### Supreme Court Justice Senders

GO-1	
Inappropriate messages sent:	Private Address: Under 5
Categories of Material:	<ul style="list-style-type: none"> <li>• Nudity</li> <li>• Sex/Familial Status</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> </ul>

<sup>62</sup> We identified a person's position in the Pennsylvania government to the best of our ability using publicly available Internet resources, as well as information provided by the OAG. We also requested a complete list of current and former judges and judicial employees' e-mail addresses from the Administrative Office of Pennsylvania Courts ("AOPC"). While the AOPC was unable to provide a list of government e-mail addresses, it did provide a list of all judicial employees for the relevant timeframe without their titles. The request letter to the AOPC is attached at Appendix G.

<sup>63</sup>

REDACTED

REDACTED

GO-2		
Inappropriate messages sent:	Private Address: More than 100 Government Address: More than 30	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> <li>• Sexual Orientation</li> <li>• AIDS or HIV Status</li> </ul>	
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• Pennsylvania Judges</li> <li>• Judicial Employee</li> <li>• County Employees</li> <li>• US Congress Employee</li> <li>• US Secret Service Employee</li> <li>• US DOJ Employees</li> <li>• US Broadcasting Board of Governors Employee</li> <li>• Private recipients included domains of private law firms</li> </ul>	

### **Other Judge Senders**

GO-3		
Inappropriate messages sent:	Government Address: Under 10	
Categories of Material:	<ul style="list-style-type: none"> <li>• Race/Color</li> <li>• Sex/Familial Status</li> <li>• National Origin/Ancestry</li> </ul>	
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> </ul>	

GO-4		
Inappropriate messages sent:	Government Address: Under 10	
Categories of Material:	<ul style="list-style-type: none"> <li>• Nudity</li> <li>• Religious Creed</li> <li>• Sexual Orientation</li> </ul>	
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> <li>• Public School Employee</li> <li>• Private recipients included domain of private law firm</li> </ul>	

GO-5		
Inappropriate messages sent:	Government Address: Under 10	
Categories of Material:	<ul style="list-style-type: none"> <li>• Nudity</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• Handicap or Disability</li> <li>• Sexual Orientation</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> </ul>	

We also identified inappropriate e-mails sent by more than 25 district attorneys or assistant district attorneys, including at least three that sent e-mails containing nudity or obscene material.<sup>64</sup>

#### **B. Senior Officials of Government Agencies and Departments**

We identified the following people, who hold senior positions in governmental agencies and departments, as senders of three or more inappropriate e-mails.

GO-6		
Inappropriate messages sent:	Government Address: 5	
Categories of Material:	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• Religious Creed</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> <li>• State Employee</li> </ul>	

GO-7		
Inappropriate messages sent:	Government Address: 4	
Categories of Material:	<ul style="list-style-type: none"> <li>• Sexual Orientation</li> </ul>	
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> </ul>	

GO-8		
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<sup>64</sup> See Appendix H for a complete list of senders.

Inappropriate messages sent:	Government Address: 3	
Categories of Material:	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• Age</li> </ul>	<ul style="list-style-type: none"> <li>• Religious Creed</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> <li>• State Employee</li> </ul>	

GO-9		
Inappropriate messages sent:	Government Address: 2 Private Address: 4	
Categories of Material:	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Nudity</li> </ul>	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• Gender Identity/Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> </ul>	

GO-10		
Inappropriate messages sent:	Government Address: 3	
Categories of Material:	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• Religious Creed</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> </ul>	

GO-11		
Inappropriate messages sent:	Government Address: 7	
Categories of Material:	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Sexual Orientation</li> <li>• Race</li> </ul>	<ul style="list-style-type: none"> <li>• Religious Creed</li> <li>• Handicap/Disability</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> </ul>	

GO-12		
Inappropriate messages sent:	Government Address: 3	
Categories of Material:	<ul style="list-style-type: none"> <li>• Nudity</li> </ul>	<ul style="list-style-type: none"> <li>• Religious Creed</li> </ul>

	<ul style="list-style-type: none"> <li>• Sexual Orientation</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• State Employee</li> </ul>

### C. Legislative Sender

We identified one member of the Pennsylvania House of Representatives who sent three inappropriate e-mails.

GO-13	
Inappropriate messages sent:	Government Address: 3
Categories of Material:	<ul style="list-style-type: none"> <li>• Age</li> <li>• Sex/Familial Status</li> <li>• Race</li> <li>• Religious Creed</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> </ul>

### D. High-Volume Senders

In addition to high-level senders, we identified “high-volume” senders, defined as those who sent 50 or more offensive e-mails. The focus on “high-volume” senders is important because it sheds light on the relationships among Commonwealth employees, judges, legislators, and others, and highlights ways in which the perception and reality of unbiased justice and representation can be undermined when those in public service feel empowered and comfortable sending offensive e-mails to judicial branch officials, including judges, as well as high-ranking officials in the General Assembly and Commonwealth executive branch agencies.<sup>65</sup>

Below is a breakdown of each high-volume sender, the types of inappropriate material sent, and the categories of the high-volume sender’s government employee recipients. As

<sup>65</sup> A list of all government senders represented in this report is attached at Appendix H. As noted above, while the pool of inappropriate e-mails identified by the Investigative Team includes both government and non-government senders, the analysis of individual senders in this report is limited to government employee senders with known work and/or private e-mail addresses, as the charge of this investigation was specific to government e-mail accounts and servers.



illustrated in the following tables, high-volume senders tended to send all types of inappropriate material, including pornography.

HV-1		
Inappropriate messages sent:	Private Address: More than 700 Government Address: More than 100	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> <li>• Union Membership</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• Pennsylvania Supreme Court Justice</li> <li>• Judicial Employees</li> <li>• US DOJ Employee</li> <li>• US DHS Employee</li> <li>• Police Chief</li> <li>• County Employees</li> <li>• Pennsylvania State Employees</li> </ul>	

HV-2		
Inappropriate messages sent:	Private Address 1: More than 50 Private Address 2: More than 150 Government Address: More than 200	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> <li>• AIDS or HIV Status</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• US DOJ Employee</li> <li>• US DHS Employee</li> <li>• City Employees</li> <li>• County Employees</li> <li>• Pennsylvania State Employees</li> </ul>	

HV-3		
Inappropriate messages sent:	Government Address: More than 300	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> <li>• Sexual Orientation</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• City Employees</li> <li>• State Employees</li> <li>• County Employees</li> <li>• District Attorney Employee</li> </ul>	

HV-4		
Inappropriate messages sent:	Government Address: More than 200	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> <li>• Guide Animals</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• County Employees</li> <li>• City Employees</li> <li>• Police Department Employees</li> <li>• US DOJ Employees</li> <li>• Assistant District Attorney</li> <li>• Pennsylvania State Employees</li> <li>• County Employees from Other States</li> <li>• School District Employee</li> </ul>	

HV-5		
Inappropriate messages sent:	Government Address: More than 150	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> </ul>	<ul style="list-style-type: none"> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>



	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Religious Creed</li> <li>• Gender Identity or Expression</li> </ul>	<ul style="list-style-type: none"> <li>• Handicap/Disability</li> <li>• Race/Color</li> <li>• Sexual Orientation</li> <li>• AIDS or HIV Status</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• State Employees</li> </ul>	

HV-6		
Inappropriate messages sent:	Government Address: Approximately 150	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Religious Creed</li> <li>• National Origin/Ancestry</li> <li>• Gender Identity or Expression</li> </ul>	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• Age</li> <li>• Handicap/Disability</li> <li>• Sexual Orientation</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> <li>• County Employee</li> </ul>	

HV-7		
Inappropriate messages sent:	Government Address 1: More than 100 Government Address 2: More than 30	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• County Employees</li> <li>• State Employees</li> <li>• OAG Employees</li> </ul>	

HV-8		
Inappropriate messages sent:	Private Address: More than 100 Government Address: More than 30	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> </ul>

	<ul style="list-style-type: none"> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• Sexual Orientation</li> <li>• AIDS or HIV Status</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• Pennsylvania Judges</li> <li>• Judicial Employee</li> <li>• County Employees</li> <li>• US Congress Employee</li> <li>• US Secret Service Employee</li> <li>• US DOJ Employees</li> <li>• US Broadcasting Board of Governors Employee</li> <li>• (Private recipients included domains of private law firms)</li> </ul>	

HV-9		
Inappropriate messages sent:	Government Address: More than 130	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Race</li> <li>• National Origin/Ancestry</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>	<ul style="list-style-type: none"> <li>• Nudity</li> <li>• Religious Creed</li> <li>• Sex/Familial Status</li> <li>• Union Membership</li> <li>• Age</li> <li>• Handicap or Disability</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> <li>• State Employees</li> </ul>	

HV-10		
Inappropriate messages sent:	Government Address: More than 100	
Categories of Material:	<ul style="list-style-type: none"> <li>• Nudity</li> <li>• Sex/Familial Status</li> <li>• Handicap/Disability</li> <li>• Age</li> <li>• Religious Creed</li> </ul>	<ul style="list-style-type: none"> <li>• Sexual Orientation</li> <li>• National Origin/Ancestry</li> <li>• Race</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> </ul>	

HV-11		
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Inappropriate messages sent:	Government Address: More than 100	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Sexual Orientation</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Sex/Familial Status</li> <li>• Gender Identity or Expression</li> <li>• AIDS or HIV Status</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> </ul>	

HV-12		
Inappropriate messages sent:	Government Address: More than 100 Private Address: Under 10	
Categories of Material:	<ul style="list-style-type: none"> <li>• Nudity</li> <li>• Sex/Familial Status</li> <li>• Age</li> <li>• Sexual Orientation</li> <li>• Handicap or Disability</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Religious Creed</li> <li>• Race</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> </ul>	

HV-13		
Inappropriate messages sent:	Government Address: More than 100 Private Address: Under 5	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• National Origin/Ancestry</li> <li>• Gender Identity or Expression</li> <li>• Religious Creed</li> </ul>	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• Age</li> <li>• Handicap/Disability</li> <li>• Sexual Orientation</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> </ul>	

HV-14		
Inappropriate messages sent:	Government Address 1: More than 50 Government Address 2: More than 50	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> </ul>

	<ul style="list-style-type: none"> <li>• Nudity</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• Handicap or Disability</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• County Employees</li> <li>• State Employees</li> </ul>	

HV-15		
Inappropriate messages sent:	Private Address: Under 5 Government Address: More than 90	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• US FBI Employee</li> <li>• District Attorney Employees</li> <li>• Assistant District Attorneys</li> <li>• Judicial Employee</li> <li>• County Employee</li> </ul>	

HV-16		
Inappropriate messages sent:	Government Address: More than 90	
Categories of Material:	<ul style="list-style-type: none"> <li>• Nudity</li> <li>• Religious Creed</li> <li>• Sexual Orientation</li> <li>• Race/Color</li> <li>• Gender Identity or Expression</li> </ul>	<ul style="list-style-type: none"> <li>• Age</li> <li>• Sex/Familial Status</li> <li>• National Origin/Ancestry</li> <li>• Handicap/Disability</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> </ul>	

HV-17		
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HV-17		
Inappropriate messages sent:	Government Address: More than 90	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Handicap/Disability</li> <li>• Sexual Orientation</li> </ul>	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• Age</li> <li>• National Origin/Ancestry</li> <li>• Religious Creed</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• State Employees</li> </ul>	

HV-18		
Inappropriate messages sent:	Government Address: More than 90 Private Address: Under 5	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Sexual Orientation</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Gender Identity or Expression</li> </ul>	<ul style="list-style-type: none"> <li>• Handicap/Disability</li> <li>• National Origin/Ancestry</li> <li>• Sex/Familial Status</li> <li>• Age</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• State Legislative Employees</li> <li>• OAG Employees</li> </ul>	

HV-19		
Inappropriate messages sent:	Government Address: More than 80	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Gender Identity or Expression</li> <li>• Sexual Orientation</li> </ul>	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• National Origin/Ancestry</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> </ul>	

HV-20		
Inappropriate messages sent:	Government Address: Approximately 80	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> </ul>	<ul style="list-style-type: none"> <li>• Age</li> </ul>

	<ul style="list-style-type: none"> <li>• Nudity</li> <li>• Religious Creed</li> <li>• Race/Color</li> <li>• Handicap/Disability</li> </ul>	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• Gender Identity or Expression</li> <li>• Sexual Orientation</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> </ul>	

HV-21		
Inappropriate messages sent:	Government Address: Approximately 70 Private Address: Under 5	
Categories of Material:	<ul style="list-style-type: none"> <li>• Religious Creed</li> <li>• Race/Color</li> <li>• Gender Identity or Expression</li> </ul>	<ul style="list-style-type: none"> <li>• Handicap/Disability</li> <li>• Sex/Familial Status</li> <li>• Sexual Orientation</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> <li>• State Legislative Employees</li> </ul>	

HV-22		
Inappropriate messages sent:	Government Address: More than 70	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Age</li> <li>• Handicap/Disability</li> </ul>	<ul style="list-style-type: none"> <li>• Religious Creed</li> <li>• Sex/Familial Status</li> <li>• National Origin/Ancestry</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> <li>• State University Employees</li> </ul>	

HV-23		
Inappropriate messages sent:	Government Address: More than 70	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Sexual Orientation</li> <li>• Race/Color</li> <li>• Handicap/Disability</li> </ul>	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• Age</li> <li>• National Origin/Ancestry</li> <li>• Religious Creed</li> <li>• Gender Identity or</li> </ul>



	<ul style="list-style-type: none"> <li>• Guide Animals</li> </ul>	Expression
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> </ul>	

HV-24		
Inappropriate messages sent:	Government Address: More than 60	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• County Employees</li> <li>• State Employees</li> <li>• US DHS Employee</li> </ul>	

HV-25		
Inappropriate messages sent:	Government Address: More than 60	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Sexual Orientation</li> <li>• Religious Creed</li> <li>• Handicap or Disability</li> </ul>	<ul style="list-style-type: none"> <li>• Race</li> <li>• Sex/Familial Status</li> <li>• Age</li> <li>• National Origin/Ancestry</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> </ul>	

HV-26		
Inappropriate messages sent:	Government Address: More than 60	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Handicap/Disability</li> <li>•</li> </ul>	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• National Origin/Ancestry</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient	<ul style="list-style-type: none"> <li>• OAG Employees</li> </ul>	

Populations:	<ul style="list-style-type: none"> <li>State Employees</li> </ul>
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HV-27		
Inappropriate messages sent:	Government Address: More than 60	
Categories of Material:	<ul style="list-style-type: none"> <li>Obscene Material</li> <li>Handicap/Disability</li> <li>Religious Creed</li> </ul>	<ul style="list-style-type: none"> <li>Sex/Familial Status</li> <li>Sexual Orientation</li> <li>Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>OAG Employees</li> </ul>	

HV-28		
Inappropriate messages sent:	Government Address: More than 60	
Categories of Material:	<ul style="list-style-type: none"> <li>Obscene Material</li> <li>Religious Creed</li> <li>Race</li> <li>Sexual Orientation</li> <li>Age</li> </ul>	<ul style="list-style-type: none"> <li>Nudity</li> <li>Sex/Familial Status</li> <li>National Origin/Ancestry</li> <li>Handicap or Disability</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>OAG Employees</li> <li>State Employees</li> </ul>	

HV-29		
Inappropriate messages sent:	Government Address: Approximately 60	
Categories of Material:	<ul style="list-style-type: none"> <li>Obscene Material</li> <li>Nudity</li> <li>Handicap/Disability</li> <li>AIDS or HIV Status</li> <li>Race/Color</li> <li>Sexual Orientation</li> </ul>	<ul style="list-style-type: none"> <li>Sex/Familial Status</li> <li>Age</li> <li>National Origin/Ancestry</li> <li>Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>OAG Employees</li> <li>State Employees</li> </ul>	

HV-30		
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Inappropriate messages sent:	Government Address: Approximately 60	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Age</li> <li>• Handicap/Disability</li> <li>• Race/Color</li> </ul>	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• National Origin/Ancestry</li> <li>• Religious Creed</li> <li>• Sexual Orientation</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Legislative Employees</li> <li>• State Employees</li> </ul>	

HV-31		
Inappropriate messages sent:	Government Address: More than 50	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> <li>• District Attorney's Office Employees</li> <li>• Judicial Employee</li> </ul>	

HV-32		
Inappropriate messages sent:	Government Address: More than 50	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> <li>• County Employees</li> <li>• State Employee</li> </ul>	

HV-33		
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Inappropriate messages sent:	Government Address: More than 50 Private Address: Under 5	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Religious Creed</li> <li>• Sexual Orientation</li> </ul>	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• Race/Color</li> <li>• National Origin/Ancestry</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• State Employees</li> <li>• OAG Employees</li> </ul>	

HV-34		
Inappropriate messages sent:	Government Address: More than 50	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> <li>• County Employee</li> <li>• City Employees</li> </ul>	

HV-35		
Inappropriate messages sent:	Government Address: More than 50	
Categories of Material:	<ul style="list-style-type: none"> <li>• Nudity</li> <li>• Religious Creed</li> <li>• Race/Color</li> <li>• Gender Identity or Expression</li> </ul>	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• Age</li> <li>• National Origin/Ancestry</li> <li>• AIDS or HIV Status</li> <li>• Sexual Orientation</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> </ul>	

HV-36		
Inappropriate messages sent:	Government Address: Approximately 50	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> </ul>

	<ul style="list-style-type: none"> <li>• Race/Color</li> <li>• Religious Creed</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> </ul>	

HV-37		
Inappropriate messages sent:	Government Address: More than 40 Private Address: Less than 10	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Nudity</li> <li>• Sexual Orientation</li> <li>• Race/Color</li> <li>• Religious Creed</li> </ul>	<ul style="list-style-type: none"> <li>• Sex/Familial Status</li> <li>• Age</li> <li>• National Origin/Ancestry</li> <li>• Handicap/Disability</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employees</li> <li>• State Employees</li> <li>• County Employees</li> </ul>	

HV-38		
Inappropriate messages sent:	Government Address: More than 40 Private Address: Less than 5	
Categories of Material:	<ul style="list-style-type: none"> <li>• Obscene Material</li> <li>• Race/Color</li> <li>• Age</li> <li>• Sex/Familial Status</li> </ul>	<ul style="list-style-type: none"> <li>• National Origin/Ancestry</li> <li>• Handicap or Disability</li> <li>• Sexual Orientation</li> <li>• Gender Identity or Expression</li> </ul>
Government Recipient Populations:	<ul style="list-style-type: none"> <li>• OAG Employee</li> <li>• Police Employees</li> <li>• County Employee</li> </ul>	

#### **E. Examples of Each Type of Inappropriate Material**

The e-mails identified as offensive in this report contain material from one or more of the categories described in Section II: Obscene Material; Nudity; or material that is offensive or discriminatory on the basis of Race; Color; Religious Creed; National Origin/Ancestry; Age;

Sex/Familial Status; Handicap or Disability; Guide Animals; Union Membership; Sexual Orientation; Gender Identity or Expression; and AIDS or HIV Status. Set forth below are descriptions of example e-mails in these categories with the redacted e-mail attached at Appendices I - V.

### **Appendix I**

“Fw: The Bald Eagle XX” sent Monday, March 30, 2009, at 2:18:53am from an OAG employee’s personal account to 16 recipients:

This e-mail contains the following relevant text: “But in ALL of the Eagle Family, none is a more beautiful, majestic... awe inspiring, or a spiritually arousing specimen than the Spread Eagle...” followed by a series of photographs of nude women with their legs spread apart. Several of the photographs depict oral sex, masturbation, or sexual intercourse. Accompanying some of the photographs are captions like “The Spread Eagle is a beautiful, elegant creature...but a very, very messy eater...” The e-mail also has several additional photographs attached, depicting nude women and similar sexual acts.

### **Appendix J**

“Fwd: Fw: Fwd: Take a Guess?” sent Monday, October 21, 2013, at 1:40:56am from a retired OAG employee’s private account to 67 recipients, including at least one judge:

This e-mail contains the following relevant text: “CAN YOU GUESS WHAT THIS IS? It’s the next thing taxpayers will have to pay for! MICHELLE OBAMA’S HIGH SCHOOL REUNION !!!!!!!” Attached to the e-mail is a photograph of a large group of bare-breasted, dark-skinned women of African ancestry standing outdoors by a river,

dressed in what appear to be traditional tribal skirts and adornments and holding bundles of bamboo sticks.

#### **Appendix K**

“FW: [Fwd: Fwd: FW: I Love tennis]” sent Monday, June 29, 2009, at 7:11:32pm from an OAG employee’s government account to two recipients:

This e-mail contains the following text: “Playah, as a former tennis pro, I thought you might enjoy this. [. . .] Do you need anyone killed?” Attached to the e-mail is a single PowerPoint file called “ILovetennis.pps” that contains photographs of partially and fully exposed women’s breasts.

#### **Appendix L**

“Fwd: I’ve Sent Some” sent Monday, March 7, 2011, at 12:50:42am from a retired OAG employee’s private e-mail account to 41 recipients, including at least one judge:

This e-mail includes 22 attachments, all of which are photographs of naked women. The forwarded e-mail message includes, among other text, the following statement: “Ashes to ashes / Dust to dust / If Rock Hudson ate pussy / He’d still be with us.”

#### **Appendix M**

“FW: The forehead dot” sent Monday, September 28, 2009, at 6:07:04pm from a Pennsylvania Board of Probation & Parole agent’s government account to 10 recipients:

This e-mail contains, under the headline “Finally, Someone’s Cleared This Up,” a joke purporting to explain why Hindu women wear a dot, or *bindi*, on their foreheads. The relevant text reads, “On her wedding night, the husband must scratch off the dot to see whether he’s won a convenience store, a gas station, a donut shop, a taxi cab, or a motel

in America. If nothing is there, he must remain in India to answer telephones and provide us with technical support.”

#### **Appendix N**

“FW: A Great Short Story” sent Friday, April 29, 2011, at 3:27:26pm from an OAG employee’s government account:

This e-mail contains the following text, accompanied by a photograph of a woman leaning back in the sunlight: “Great Short Story / One day, long, long ago, there lived a woman who did not whine, nag or bitch / But it was a long time ago, and it was just that one day. The End[.]”

#### **Appendix O**

“FW: They’re BAAACCCKKKKK!!! PEOPLE OF WALMART #4!!!” sent Monday, November 2, 2009, at 2:32:52pm from a district attorney’s office employee’s government account to 12 recipients:

This e-mail contains 19 attachment photographs purporting to depict shoppers at Walmart stores, along with corresponding captions in the body of the e-mail. One of the photographs depicts a person with long hair wearing cutoff jean shorts and a midriff-baring top, and there is a superimposed graphic in the corner of a winking smiley face and the text, “PEOPLE OF WALMART.” The corresponding caption in the e-mail reads, “This is either the ugliest woman ever, the worst cross-dresser ever, or a guy that is really bad at choosing gender appropriate clothes. Maybe it’s all three – an ugly woman, cross-dressing as a man, who can’t pick out manly clothes. Texas[.]”

#### **Appendix P**

“FW: new motivational posters” sent Thursday, September 17, 2009, at 3:59:15pm from a county judicial employee’s government e-mail account to 30 recipients:

This e-mail includes 19 attachments, each of which is a satirical motivational poster. One of the motivational posters included features a photograph of a woman with large breasts holding a bow and arrow as if poised to fire the arrow. Below the photograph appears the following text: “GAY TEST / If you noticed the bow first, then I have bad news for you[.]” Another poster features a photograph of two smiling young people standing in front of a tall man with blond hair and very light skin. Under the photograph appears the text: “ALBINOS / They either have no soul or a good sense of humor. I can’t figure out which.”

#### **Appendix Q**

“Fw: DATE” sent Wednesday, May 27, 2009, at 1:37:28pm from an OAG employee’s private e-mail account to 23 recipients:

This e-mail includes one attachment, a photograph of an elderly woman in a wheelchair holding her bare breasts. Above the photograph appears the text, “Want a Date?”

#### **Appendix R**

“RE: Don’t miss these deals from Clear Channel – Harrisburg” sent Tuesday, April 10, 2012, at 7:15:53pm from an OAG employee’s government e-mail account to one recipient:

This e-mail contains the following text, in response to a conversation participant’s earlier assertion that she hates midgets: “ESPECIALLY ASIAN MIDGETS DRESSED AS CLOWNS!”

#### **Appendix S**

“FW: Nicoderm” sent Monday, March 9, 2009, at 7:21:08pm from a Commonwealth employee’s e-mail account to three recipients:

This e-mail contains the following text: “Nicoderm. Two priests are in a Vatican bathroom using the urinals. One of them looks at the other one’s penis and notices there’s a Nicoderm patch on it. He looks at the other priest and says, ‘I believe you’re supposed to put that patch on your arm or shoulder, not your penis.’ The other one replies, ‘It’s working just fine. I’m down to two butts a day.’ \*IF YOU LAUGH . . . YOU’LL GO STRAIGHT TO HELL!!!!”

### **Appendix T**

“FW: Amish Sex” sent Tuesday, January 17, 2012, at 1:21:34pm from an employee at the Penn State University Hershey Medical Center to seven recipients:

This e-mail contains the following text: “Amish Sex...An Amish woman and her daughter were riding in an old buggy one cold blustery day. The daughter said to her mother, ‘My hands are freezing cold.’ The mother replied, ‘Put them between your legs and your body heat will warm them up.’ The daughter did, and her hands warmed up. The next day the daughter was riding with her boyfriend who said, ‘My hands are freezing cold.’ The girl replied, ‘Put them between my legs and the warmth of my body will warm them up.’ He did and so warmed his hands. The following day the boyfriend was again in the buggy with the daughter. He said, ‘My nose is cold...’ The girl replied, ‘Put it between my legs, the warmth of my body will warm it up.’ He did and so warmed his nose. The day after the boyfriend was again driving with the daughter, and he said, ‘My penis is frozen solid.’ The next day, the daughter was driving in the buggy with her mother again, and she asks, ‘Have you ever heard of a penis?’ Concerned the mother



said, ‘Why yes....why do you ask?’ The daughter replies, ‘They make one hell of a mess when they defrost, don’t they!!!’”

#### **Appendix U**

“FW: How Obama Plans To Catch Illegal Mexicans” sent Thursday, June 17, 2010, at 1:15:53pm from an OAG agent:

This e-mail shows a photograph of a Corona Extra beer bottle placed underneath a trap made from a cardboard Natural Ice box and what appears to be a broom handle. The photograph is accompanied by the following text: “How Obama Plans To Catch Illegal Mexicans.”

#### **Appendix V**

Screenshot from attachment to an e-mail titled “FW: A new version of Whack a Mole {XX}” sent Tuesday, August 16, 2011, at 1:53:59pm from an OAG agent to 11 recipients:

This screenshot shows a still image from a video attachment depicting a woman performing sexual acts with male genitalia that appear through holes in a “Whac-A-Mole” style game board.

### **V. RECOMMENDATIONS**

As noted above in Section III, there are numerous laws, codes, and policies in force that prohibit the sending of inappropriate communications by public officials and judges in the Commonwealth. Therefore, my recommendations focus on improving the enforcement of, and adherence to, the rules already in place, rather than on adopting new policies. Specifically, my recommendations are centered on improving the training of employees and streamlining processes for reporting misconduct. I also note that my recommendations are aimed at addressing the broader issue of a culture which permitted vast and substantial violations of

ethical requirements and standards. Consequently, any specific policy recommendation aimed at curtailing misconduct in the justice system and government of Pennsylvania will be ineffective unless the culture that has permitted expressions of prejudiced and bigoted attitudes across the Commonwealth, and sometimes among those at its highest levels, permanently changes.

**A. Commonwealth Branches Should Conduct Mandatory Anti-Bias and Diversity Training**

We understand that many Commonwealth agencies and entities may already conduct workplace anti-bias and diversity training. We recommend that all Commonwealth employees, including legislators and judges, have mandatory training that includes comprehensive anti-prejudice, anti-discrimination, conscious- and unconscious-bias, and diversity training. Employees should sign certifications of attendance and acknowledge that they understand and agree to comply with Commonwealth policies on diversity and non-discrimination. This training, and the accompanying certifications of acknowledgment, should be required at the commencement of employment and at least annually thereafter. Failure to comply should be grounds for disciplinary action by the employee's supervisor, the JCB, or the relevant supervisory or disciplinary body. For judges, in particular, it should be stressed that this duty covers all conduct by a judge and extends beyond his or her official duties.

**B. Commonwealth Agencies and the Judiciary Should Consider Using Software to Detect Potentially Explicit Materials**

Commonwealth agencies and the judiciary should evaluate and consider implementing technical tools, such as software programs, that automatically detect, monitor, and block attempts to access sexually explicit materials on government computers. The use of such software is common in many private sector and government workplaces. Transmission or attempted transmission of sexually explicit or offensive materials should be monitored and, where appropriate, referred to the JCB, an agency supervisor, or other appropriate person or body. Of

course, I understand that the transmission or viewing of such materials is sometimes a required, and indeed necessary, part of the official responsibilities of certain Commonwealth employees, particularly those charged with investigating and prosecuting certain crimes. Exceptions to the software restrictions should be made for Commonwealth personnel and judges with those duties.

**C. The Commonwealth Should Create a More Robust System for Reporting Potential Misconduct by Judges and Other Commonwealth Employees**

Pennsylvania needs more vigorous and vigilant enforcement of the Code of Judicial Conduct (“Code”). Given the extensive, and apparently unreported, use of inappropriate e-mail in violation of the Code and OAG policies, it is important that Commonwealth government and judicial agencies improve their systems for reporting potential misconduct by judges, judicial employees, and other government employees. The JCB should consider updating its policies and procedures to make it easier for citizens to bring complaints about possible breaches of the Code. Although the JCB accepts anonymous complaints, it discourages citizens from doing so, noting that such complaints are more difficult to investigate.<sup>66</sup> While the JCB’s rationale for discouraging anonymous complaints is understandable, the JCB should consider ways to make such complaints easier to file.

Additionally, the JCB currently only allows complaints to be filed by mail. The use of paper copies may be onerous for some complainants. The Board should consider accepting complaints via online submission in certain circumstances, particularly because potentially reportable conduct may involve e-mail communications. The Board should also consider the creation of a telephone hotline for citizens to use for both reporting potential misconduct and requesting additional information on how to file complaints with the JCB. Finally, the JCB should expand its efforts to educate the public about its mission and procedures.

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<sup>66</sup> Judicial Conduct Board of Pennsylvania, Filing a Complaint, <http://judicialconductboardofpa.org/filing-a-complaint/>.

These same principles should apply to persons and offices within Commonwealth entities that have supervisory, human resources, or ombudsperson functions. Entities should consider updating procedures to make it easier for citizens and employees to file complaints about misconduct, including offensive or discriminatory communications, even when those complaints are being made against a person in a position of authority. Commonwealth agencies should have effective anti-retaliation protections for employees and citizens who file complaints in good faith. Moreover, these agencies should publicize the procedures for filing complaints so that employees or citizens are aware of the procedures and feel able to file a complaint confidentially and without fear of retaliation or reprisal. In cases where an agency does not have a designated person or office to handle such complaints, an appropriate person should be designated and trained in doing so.

**D. Commonwealth Entities Should Improve Mechanisms for Enforcement of Nondiscrimination Policies**

As mentioned above, many Commonwealth entities, including the Pennsylvania judiciary, the OAG, and the Governor's Office already have policies against discrimination and harassment in the workplace. Commonwealth entities that do not yet have specific policies should adopt them, consistent with the legal requirements of the Pennsylvania Human Relations Act. Such policies should prohibit discrimination on the basis of the above-described personal characteristics in the course of making employment decisions, including hiring, firing, and promotions. They should also prohibit the use of statements or slurs that constitute harassment or would create a hostile work environment. For those agencies that already have policies, Commonwealth entities should ensure that mechanisms for reporting violations, investigating alleged violations, and instituting disciplinary action are sufficiently robust.

## **VI. CONCLUSION**

The above recommendations would, in my view, decrease the likelihood of Commonwealth judges, judicial employees, legislators, legislative staff, and executive branch officials and employees engaging in the types of e-mail communications that are the subject of this Report. It is also my hope that the release of this Report will bring some further level of public awareness to the problem of inappropriate communications by officers of the court and other Commonwealth employees, particularly those entrusted with investigating, prosecuting, and adjudicating potential violations of the laws of the Commonwealth—and that this increased awareness will cause a requisite change in behavior. Publishing here the names and identities of the primary senders of inappropriate material is not done lightly or with the intent to embarrass the individuals involved. Rather, the primary goal of transparency, outlined at the beginning of this Report, requires that I do so.

The OAG should consider other creative ways, beyond the recommendations outlined above, to seek to change the cultural issues that contribute to creating an environment where Commonwealth employees apparently feel comfortable sending blatantly inappropriate material through Commonwealth e-mail systems. The misogyny and racism—both implicit and explicit—in some of these communications is startling, and suggests a much broader issue within government than one of disrespecting e-mail policies and other employee policies. A change in culture and the conduct of an appreciable number of Commonwealth judges, officials, and employees, combined with additional training, monitoring tools, and reporting improvements, can have a significant role in restoring and enhancing public confidence in the government and judicial system of the Commonwealth.